

**BEFORE THE  
ADMINISTRATIVE RULES COMMITTEE  
OF THE  
NORTH DAKOTA LEGISLATIVE COUNCIL**

**N.D. Admin. Code Chapter )  
75-03-21, Licensing of Family )  
Foster Homes for Adults )  
(Pages 207-229) )**

**REPORT OF THE  
DEPT. OF HUMAN SERVICES  
September 13, 2012**

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For its report, the North Dakota Department of Human Services states:

1. The proposed amendments to N.D. Admin. Code chapter 75-03-21 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department of Human Services uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services offices in North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.  
The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized

and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on March 26, 2012. The record was held open until 5:00 p.m. on April 5, 2012, to allow written comments to be submitted. Comments were received. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$1,887.34.
6. The proposed rules amend chapter 75-03-21 to address changes recommended by a group that reviewed the rules, to address changes in practice, and to address obsolete language. The following specific changes were made:

Section 75-03-21-01. Section 75-03-21-01 is amended to update definitions for the chapter.

Section 75-03-21-02. Section 75-03-21-02 is amended to increase an application fee and to add a relicensing fee which would be used for education and assistance for foster care licensing; and to require a meal plan as a part of licensing documentation.

Section 75-03-21-03. Section 75-03-21-03 is amended to identify the limitations of a license and to clarify language.

Section 75-03-21-04. Section 75-03-21-04 is amended to prohibit the use of video and audio surveillance equipment in the resident's bedroom and bathroom.

Section 75-03-21-05. Section 75-03-21-05 is amended to update language.

Section 75-03-21-06. Section 75-03-21-06 is amended to update language.

Section 75-03-21-07. Section 75-03-21-07 is amended to clarify required insurance coverage.

Section 75-03-21-08. Section 75-03-21-08 is amended to update language.

Section 75-03-21-08.1. Section 75-03-21-08.1 is amended to update language.

Section 75-03-21-09. Section 75-03-21-09 is amended to prohibit providers from purchasing items from residents without assuring the purchase was at fair market value and to prohibit providers from soliciting property or possessions from the resident or the resident's family. Additional amendments address the designation of a provider as holder of a resident's power of attorney and the accounting required in that situation, as well as specifies the resident cannot be left alone and updates language.

Section 75-03-21-09.1. Section 75-03-21-09.1 is amended to create consistency across programs relative to criminal convictions which have an effect on licensure and operation of a family foster care home for adults.

Section 75-03-21-10. Section 75-03-21-10 is amended to clarify who is a "resident of the facility" and to update language.

Section 75-03-21-11. Section 75-03-21-11 is amended to update language.

Section 75-03-21-12. Section 75-03-21-12 is amended to clarify that proper information about the admission rules to the foster care home be provided to new residents, their families, or both.

Section 75-03-21-13. Section 75-03-21-13 is amended to require foster care providers to inform the county agency of the provider's intent to terminate care of a resident, and to assist the county in transferring a resident to a more appropriate setting.

Section 75-03-21-15. Section 75-03-21-15 is amended to update language.

Section 75-03-21-16. Section 75-03-21-16 is amended to update language.

Section 75-03-21-17. Section 75-03-21-17 is amended to update language.

Section 75-03-21-19. Section 75-03-21-19 is amended to update language.

Section 75-03-21-21. Section 75-03-21-21 is amended to update language.

Section 75-03-21-22. Section 75-03-21-22 is amended to require a provider who assists a resident with the resident's personal finances, to keep a written accounting of transactions.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.

8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
9. These rules are not expected to have a fiscal impact on state revenues and expenditures, including on any funds controlled by the Department.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

Julie Leer  
Legal Advisory Unit  
North Dakota Department of Human Services  
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